

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 10, 2008
POSITION: Oppose

BILL NUMBER: SB 1322
AUTHOR: A. Lowenthal

BILL SUMMARY: Public Employees and Property: Communism

Under current law, the Civic Center Act designates public school facilities to be considered civic centers where citizens, school-community councils, clubs, and other organizations may meet for recreational, political, and artistic purposes, etc. Additionally, as part of the Civic Center Act, school boards are required to obtain a written statement from any group requesting the use of school property for these purposes and certify that it does not advocate the overthrow of the government and that it is not a Communist action organization. This bill would delete that requirement, and instead provide discretion for a school board to determine whether any information needs to be collected to ensure that an applicant does not intend on furthering any program or movement to overthrow the government while using school property. This bill also would delete various provisions in current law regarding the advocacy of, or membership in, the Communist Party as cause for the suspension or dismissal of school, community college, and public employees. Further, this bill would permit public employees, unless elected or serving an elected official, to decline to take the oath required by the California Constitution based on religious beliefs.

FISCAL SUMMARY

While this may minimize a school board's review process by eliminating the current certification requirement for applicants seeking to use school property, this bill may drive offsetting local administrative costs for school districts in making determinations as to whether applicants may pose potential safety or security risk. For instance, in the event a political organization favoring communism attempted to utilize school facilities, the school would likely need to consider security issues. It is unknown if these costs would outweigh the savings on a statewide basis. This analysis assumes any necessary security costs would be paid for by the group using the facilities.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 7, 2008 version do not alter our position.

- Permits a public employee or applicant seeking public employment, unless elected or serving an elected official, to decline to take and subscribe to the oath required by the California Constitution based on religious beliefs providing that the individual is willing and able to uphold the United States Constitution, California Constitution, and state laws.

COMMENTS

Finance is opposed to this bill for the following reasons:

- This bill appears unnecessary. The author's office contends that references to communism are antiquated and inconsistent with constitutional protections of free speech, political affiliation, and the right to remain silent. Additionally, the author's office contends that the intent of the bill is not to support communists, but to move beyond the Cold War and uphold constitutional rights.
- This bill may cause local school districts to incur additional costs in an attempt to determine if a particular group may present a safety or security risk and ensuring the facility agreement ensures proper security.

We also note that this bill is intended to address recent situations where instructors were denied employment within the California State University system due to conflicts between their religious beliefs and the loyalty oath under the California Constitution.

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| Analyst/Principal (0352) L. Del Castillo | Date | Program Budget Manager Jeannie Oropeza | Date |
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| Department Deputy Director | Date |
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| Governor's Office: | By: | Date: | Position Approved _____ |
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| BILL ANALYSIS | Form DF-43 (Rev 03/95 Buff) |
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BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

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| AUTHOR | AMENDMENT DATE |
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Form DF-43
BILL NUMBER

A. Lowenthal

June 10, 2008

SB 1322

| Code/Department Agency or Revenue Type | SO | (Fiscal Impact by Fiscal Year) | | | | | | | |
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| | LA | (Dollars in Thousands) | | | | | | | |
| | CO | PROP | | | | | | | |
| | RV | 98 | FC | 2007-2008 | FC | 2008-2009 | FC | 2009-2010 | Fund Code |
| 6110/Dept of Educ | LA | Yes | | ----- | See Fiscal Summary | ----- | | | 0001 |